

ORIGINAL

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

FEB - 6 2004

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

KEVIN COOPER,

Petitioner,

v.

JEANNE WOODFORD, Warden, San
Quentin State Prison, San Quentin,
California,

Respondent.

Case No.

04-70578

DEATH PENALTY CASE

EXECUTION IMMINENT:

Execution Date February 10, 2004

**MOTION FOR LEAVE TO
PROCEED *IN FORMA PAUPERIS***

DAVID T. ALEXANDER (Bar No. 49996)
GEORGE A. YUHAS (Bar No. 78678)
LISA MARIE SCHULL (Bar No. 196132)
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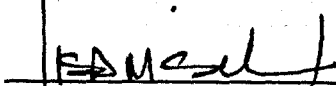
Attorneys for Petitioner Kevin Cooper

The Petitioner, KEVIN COOPER ("Petitioner"), requests leave to file the concurrently filed Application to File a Successor Petition without prepayment of costs and to proceed *in forma pauperis*. Petitioner's counsel is aware that Petitioner was previously granted leave to proceed *in forma pauperis* in the California Supreme Court.

An affidavit from Kevin Cooper is also being filed concurrently herewith in support of this motion.

February 6, 2004

Respectfully submitted,



Lisa Marie Schull

Counsel of Record for Petitioner
Orrick, Herrington & Sutcliffe LLP
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San Francisco, CA 94111
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**DECLARATION OF KEVIN COOPER
IN SUPPORT OF
MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

DAVID T. ALEXANDER (Bar No. 49996)
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Attorneys for Petitioner Kevin Cooper

I, Kevin Cooper, am the petitioner in the above-entitled case.

In support of my motion to proceed *in forma pauperis*, I state that because of my poverty, I am unable to pay the costs of this case or to give security; and I believe I am entitled to redress.

1. I am incarcerated at the San Quentin Prison in the State of California and have been sentenced to be executed on February 10, 2004. I was granted leave to proceed *in forma pauperis* before the California Supreme Court.

2. I have no regular income. I have a savings of approximately \$ 2,000.. The total of my savings has been reserved to pay for the disposition of my remains should the State of California execute me.

3. I also have no real property or other valuables.

4. The law firm of Orrick, Herrington & Sutcliffe LLP represents me *pro bono publico*.

5. It is for the above-stated reasons that I cannot pay the costs associated with this case and request that the Court grant my motion to proceed *in forma pauperis*.

I declare under penalty of perjury that the foregoing is true and correct.

February 5, 2004


Kevin Cooper